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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant: Toyoshima)	Art Unit: 2619
)	
Serial No.: 09/972,760)	Examiner: Nguyen
)	
Filed: October 5, 2001)	50P4257.03
)	
For: MULTIPLE WIRELESS FORMAT PHONE)	May 13, 2008
SYSTEM AND METHOD)	750 B STREET, Suite 3120
)	San Diego, CA 92101
)	

REPLY BRIEF

Commissioner of Patents and Trademarks
Dear Sir:

This Reply brief responds to the Examiner's Answer dated May 8, 2008.

The portion of the Answer (beginning on page 5) that is directed to responding to the Appeal Brief is rife with misspellings and difficult to understand syntax, so instead of attempting to decipher particular arguments in it, Appellant will simply focus on the portions of the references cited as support for the Answer. In attempting to respond to Appellant's point that Hanawa et al. fails to teach storing the mobile station identification number to the wireless phone *only upon determination that the wireless module provides proper operation in an intended area*, the Answer points to the following two portions of the reference, which are discussed *seriatim*: col. 9, lines 17-23 and 48-55, and col. 11, line 55 - col. 12, line 59.

Column 9, lines 17-23 teaches identifying communications conditions of a telephone 8, which is reported to a communication unit body 1. This portion of Hanawa et al. also teaches switching frequency and "service conditions and the like" (whatever that might be), and concludes by noting that several telephones 8 can be connected to the communication unit body 1. There is nothing at all in this section of Hanawa et

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al. that mentions a mobile station ID number, much less storing it anywhere, much less still that it is stored *only* upon determination that a wireless module properly operates in an intended area as required by Claim 1.

Turning to col. 9, lines 48-55, it again appears that what is "identified" are frequency and control channel *of the telephone 8* that is sought to be used, as well as a subscriber's number. Then, lines 55-60 (not mentioned in the Answer) appear to indicate that the communication control unit 1 is adjusted as necessary to match the telephone 8 "conditions". Once again, there is nothing at all in this section of the reference that mentions storing a mobile station ID number anywhere, much less still that it is stored *only* upon determination that a wireless module properly operates in an intended area as required by Claim 1.

Last, turning to col. 11, line 55 through col. 12, line 59, this portion of Hanawa et al. amplifies on the teachings above but does not address the noted shortcomings. More specifically, this portion of Hanawa et al. teaches that when the user mounts the telephone 13 in the vehicle phone cradle (referred to as the "communication unit body" above in combination with a buffer unit 12 that appears to be a connector), the buffer unit 12 detects the phone and its telephone number. As far as one can tell from reading Hanawa et al., the number is *always and without exception* then apparently transferred to the body 11, col. 11, lines 66-68. This is one way by which the body 11 learns of the frequency and "communication company" of the telephone.

Col. 12, beginning at line 9 goes on to teach that the body 11 then communicates using the number of the phone instead of the number stored in the body 11, to facilitate hands-free use in the vehicle. Because it is possible to automatically make this change, services can be provided in the car through the body 11 that are associated with the phone 13, lines 25-34.

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Col. 12, line 35 begins a discussion of controlling an oscillator frequency in the body 11 to switch to the frequency of the telephone 13, and that it is possible to use the number of the telephone 13 using the frequency of the body 11. The relied-upon portion of col. 12 concludes by noting that when the car roams from the telephone subscriber's service area (associated with the telephone 13) to the service area of the car phone (the body 11), the call is continued by switching from the subscriber's number of the telephone 13 to that of the body 11.

Accordingly, with this summary of the portions of Hanawa et al. relied on by the Answer to rebut Appellant's point summarized above, it is clear that the Answer is making things up. There is never any indication in Hanawa et al. that a decision as to whether a phone is operational implicates a storage decision, much less the one claimed.

While Appellant does not fully understand the meaning of the sentence on page 6, lines 11-13 of the Answer, Appellant notes that whatever it is trying to postulate, it is doing so without evidence of record in support. The same is true of the comment in lines 16-20. As recently clarified by the Supreme Court in KSR Int'l. Inc. v. Teleflex, Inc., 127 S.Ct. 1727 (2007), evidence must be produced in establishing a case of unpatentability, and since the comments in the Answer fail this test, they are mere examiner argument entitled to little if any weight.

In attempting to rebut Appellant's point that Hanawa et al. fails to teach multiple formats as opposed to multiple frequencies/control channels, the Answer turns troubling. Specifically, it alleges that Hanawa et al. teaches both a "first format" and a "second format", with the use of quotations in the Answer unambiguously implying that these terms appear in Hanawa et al. when in fact they do not. Thus is Hanawa et al. misrepresented to the Board.

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The fact of the matter is that Hanawa et al. mentions the word "format" only once - at col. 14, line 52, teaching that multiplexing is undertaken in a predetermined format. Not only does this fail to support the allegation of the Answer set off in quotes as though appearing verbatim in the reference, but it makes Appellant's point. When Hanawa et al. wishes to teach something about "formats", it knows how to use the word. When it wishes to teach something about frequencies, it says "frequency", not "format".

The Answer's rebuttal on page 7 to Appellant's analysis of the impropriety of the proposed combination of references is nothing more than boilerplate from the MPEP that has been parroted but not complied with. The only non-boilerplate part of the Answer is that one would be motivated to combine the references "to increase a capacity of the communication system at minimal cost" without ever supplying reasoning why Hanawa et al. is deficient to the point of requiring an increase in capacity or why Metroka could provide such an increase "at minimal cost" as alleged. In other words, the conferees are making up possible reasons to combine the references without any evidence that these reasons are valid, much less suggested in the appropriate sources.

Respectfully submitted,



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